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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/656,173

09/08/2003

Shunsuke Hijikata

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7590 05/22/2007  
McDERMOTT, WILL & EMERY  
600 13 th Street, N.W.  
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EXAMINER

TO, TUAN C

ART UNIT

PAPER NUMBER

3663

MAIL DATE

DELIVERY MODE

05/22/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Office Action Summary**

Application No.

10/656,173

Applicant(s)

HIJIKATA, SHUNSUKE

Examiner

Tuan C. To

Art Unit

3663

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 09 March 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-16, 19 and 21 is/are pending in the application.
- 4a) Of the above claim(s) 22 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 13, 19 and 21 is/are rejected.
- 7) ☒ Claim(s) 2-12, 14 and 15 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Election/Restrictions***

Applicant's election with traverse of Group I, claims 1-15, 19, and 21 in the reply filed on 03/9/07 is acknowledged. The traversal is on the ground(s) that the apparatus claims and methods claim are not distinct.

This is not found persuasive because the following:

MPEP 808 cites the reasons for insisting upon a restriction requirement. The applicant admits in his response that the claimed group may be classified in separate subclasses. The examiner not only showed separate classification but also the reasoning why said group were restrictable (i.e, process/apparatus). The applicant does not argue that the group are not separable, but rather argues that the method described in claim 22 also covers "the process of controlling the stability of a vehicle when the vehicle changes lanes". This is not persuasive since the method of claim 22 is not claimed for a method of controlling the stability of a vehicle.

Clearly, a burden exists when more than one invention is claimed and requires numerous class/subclass searches.

The requirement is still deemed proper and is therefore made FINAL.

An action on claims 1-15, 19, and 21 follows:

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 13, 19, and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ichikawa et al. (US 20020045981A1) and in view of Satou et al. (US 20010041959A1).

Regarding claims 1, and 21, The U.S patent application Publication to Ichikawa et al. has been provided as teaching a driving assist system for a vehicle comprising CCD camera (41R, 41L) as a traveling condition recognition device that detect a state of a road (paragraph 0043) and traveling environment of the vehicle (paragraph 0043, four categories are presented such as snowy, unpaved, wet and paved, dry and paved), the system of Ichikawa et al. further includes a calculation unit (45) that calculates magnitude of the overall luminance and therefore recognizes the whole surface of the road. The unit (45) classifies the situation of a road on which the vehicle is driven forward (paragraph 0043).

Ichikawa et al. is missing to include a reaction force adjustment device, an external influence detection device, and a reaction force correction device as now claimed.

The second reference to Satou et al. teaches another driving assist system for a vehicle comprising: a reaction force adjustment device that adjust reaction force characteristics of a brake pedal based upon the risk potential calculated by the control unit (9) (page 3, paragraph 0044). Satou et al. further includes an external influence detection device configured to detect external influence which will affect operation of an input device such the braking device (13) (paragraph 0020, and 0024, road-condition detection means detects whether the vehicle runs on a rough road), and a reaction force correction device as claimed (paragraph 0016, and 0051).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the system as taught by Ichikawa et al. to include the teaching of Satou et al. in order to smoothly control the running of the vehicle on different surface of a road.

As to claim 13, in Satou et al., the road-condition detection means detects a driver's perception of a reaction force generated at the pedal device as the external influence (see figure 7).

As to claim 19, the reaction force correction device corrects the reaction force characteristics differently based on different levels of a running resistance estimating a state of a pedal operation by the driver of the vehicle (figure 3; control unit 9 corrects the reaction force based on the detection of a road surface, paragraphs 0052).

***Allowable Subject Matter***

Claims 2-12, 14, and 15 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusions***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tuan C To whose telephone number is (571) 272-6985. The examiner can normally be reached on from 8:00AM to 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack Keith can be reached on 571-272-6878.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

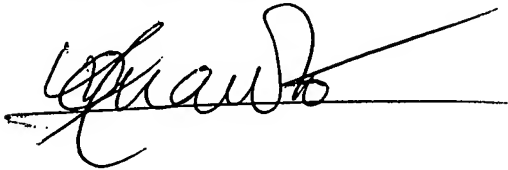
Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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Patent Examiner,

A handwritten signature in black ink, appearing to read 'Tuan C To', is written over a horizontal line. The signature is stylized with a large, looped 'T' and a long, sweeping horizontal stroke.

Tuan C To

May 8, 2007